IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

APPEAL NO.952 OF 2005

IN

SUMMONS FOR JUDGMENT NO.472 OF 2004

IN

SUMMARY SUIT NO.4031 OF 2003

...

M/s.United Studios Ltd. ...Appellant

v/s.

M/s.Deuro Broadcast ...Respondent

...

Mr.M.P.S.Rao with Mr.D.Dwarkadas for the appellant.

Mr.Simil Purohit with Mr.D.R.Mehta i/b Dhruve Liladhar & Co. for the Respondent.

...

CORAM: D.K.DESHMUKH &

J.H.BHATIA, JJ.

DATED: 30TH AUGUST, 2007

P.C.:

1. Appeal is not on board for final hearing. By consent of parties, it is taken on board for final hearing.

2. It appears that the learned single Judge while passing the order on summons for judgment, which is impugned in the Appeal granting conditional leave to the defendant/Appellant did not take into consideration the statement which was annexed to the reply filed by the Defendant.

3. The learned Counsel appearing for the Plaintiffs submits that the learned single Judge passed the order which is impugned in the Appeal without giving the Plaintiff an opportunity to file rejoinder to the reply filed by the Defendant. The learned Counsel for the Plaintiff, therefore, requested that the summons for judgment be remitted back to the learned single Judge for denovo consideration, after allowing the Plaintiff to file his rejoinder.

4. The learned Counsel appearing for the Appellant has no objection to the summons for judgment being remitted back for fresh decision to the learned single Judge.

5. In this view of the matter, therefore, the appeal is disposed of in following terms:

(i) The order impugned in the Appeal is set aside.

(ii) Summons for judgment No.472 of 2004 is remitted back to the learned single Judge for denovo consideration and decision in accordance with law, after permitting the Plaintiff to file its rejoinder.

(iii) Appeal disposed of.

(D.K.DESHMUKH, J.)

(J.H.BHATIA, J.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

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NOTICE OF MOTION NO.3555 OF 2005

IN

APPEAL NO.952 OF 2005

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...

CORAM: D.K.DESHMUKH &

J.H.BHATIA, JJ.

DATED: 30TH AUGUST, 2007

P.C.:

In view of the order passed in Appeal No.952 of 2005, this motion does not survive for consideration. Disposed of as such.

(D.K.DESHMUKH,J.)

(J.H.BHATIA, J.)